

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael King	Team: Team # 4	CCRB Case #: 200301539	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 02/15/2003 4:20 PM	Location of Incident: intersection of East 53rd Street and Lexington Avenue in Manhattan	Precinct: 17	18 Mo. SOL 8/15/2004	EO SOL 8/15/2004	
Date/Time CV Reported Tue, 02/25/2003 7:58 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 02/28/2003 3:26 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Edmond Decio	31394	915565	072 PCT
2. Officers			

Officer(s)	Allegation	Investigator Recommendation
A.POM Edmond Decio	Force: Police Officer Edmond Decio used physical force against § 87(2)(b)	
B. Officers	Force: Officers used physical force against § 87(2)(b)	

Synopsis

This complaint stems from the February 15, 2003 anti-war demonstration in Manhattan. It was filed by § 87(2)(b) § 87(2)(b), on behalf of § 87(2)(b) a § 87(2)(b) § 87(2)(b). Although this specific incident received no media coverage, the anti-war demonstration received extensive coverage and thus, the case was placed on the agency's sensitive case list.

On February 15, 2003, at approximately 4:20 PM, in the vicinity of the intersection of East 53rd Street and Lexington Avenue, § 87(2)(b) was taking photographs of the anti-war demonstration. Police Officer Edmund Decio approached him, along with approximately three or four unidentified police officers, and used physical force to escort § 87(2)(b) to a Department of Corrections arrest bus. § 87(2)(b) was placed in handcuffs, taken onto the bus, and issued a summons for disorderly conduct by Officer Decio. § 87(2)(g)

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Det. Shawnee Moore of the Internal Affairs Bureau Special Investigations Unit conducted a parallel investigation into this matter (IAB SIU 01-041-03) and closed the investigation, *Unsubstantiated*.

§ 87(4-b)
§ 87(4-b)

Summary of Complaint

Complainant's Letter

On February 19, 2003, § 87(2)(b) wrote a letter (Enclosure 3-3b) to Police Commissioner Ray Kelly, carbon-copied to Mayor Michael Bloomberg and Corporation Counsel Michael Cardozo. The letter describes two separate incidents involving § 87(2)(b) § 87(2)(b) and § 87(2)(b). The incident with § 87(2)(b) is currently open and active (CCRB case #200302181). The case at hand deals solely with the incident involving § 87(2)(b).

The letter, based on hearsay as § 87(2)(b) did not witness the incident, states that § 87(2)(b) was grabbed and dragged by three police officers while photographing protesters near 53rd Street and Lexington Avenue. The officers took § 87(2)(b) to an NYPD bus, where they threw him to the ground, handcuffed him, detained him in the bus, and wrote him a ticket for 'disorderly conduct.' § 87(2)(b) was violently accosted without warning or provocation and found the entire experience terrifying. The rough treatment did not abate when he identified himself as press and pointed to his press pass. When § 87(2)(b) asked one of the officers why he had been grabbed, he was told that the supervising Sergeant thought § 87(2)(b) was going to attack one of the NYPD horses in the area where he was working. Apparently recognizing the absurdity of this incredible claim, the officer told § 87(2)(b) that the summons against him likely would be dismissed, but the officer nonetheless was obliged to write it and § 87(2)(b) was obliged to appear in court."

Victim Statement—§ 87(2)(b)

Since § 87(2)(b) did not witness the incident, no formal statement was obtained from him. § 87(2)(b) provided a brief statement to IAB on March 6, 2003 (Enclosure 7-7a). He provided a statement to the CCRB on March 11, 2003 (Enclosure 7b-7e). The two statements are summarized as follows.

According to § 87(2)(b) numerous uniformed police officers created a large oval in the middle of Lexington Avenue just south of East 53rd Street at approximately 4 PM. The officers were keeping civilians out of the oval, but § 87(2)(b) was inside on the northernmost edge of the oval, taking photographs of civilian protesters who were surrounding the police oval and who sat down in the street. At approximately 4:15-4:20 PM, a line of approximately eight to ten mounted police officers assembled in the middle of 53rd Street and moved south towards the seated protesters in an attempt to disperse them. § 87(2)(b) § 87(2)(b) photographed this action and in the midst of doing so was "jumped [from behind]" by several police officers, one of whom was subsequently identified as PO § 87(2)(b) Decio. The officers grabbed § 87(2)(b) § 87(2)(b) lifted him off of the ground, and then dragged him towards a bus. § 87(2)(b) "clearly identified [himself] vocally" as § 87(2)(b) while he was dragged to the bus. When he arrived at the bus, § 87(2)(b) put his hands up and again identified himself § 87(2)(b). The officers

placed § 87(2)(b) on the ground, handcuffed him, and placed him inside the bus, where he waited for approximately twenty minutes.

After he was placed on the bus, an officer entered the bus, issued § 87(2)(b) a summons for § 87(2)(b), and told him to leave the area. This officer was not involved in § 87(2)(b)'s detention. At no point was § 87(2)(b) questioned about § 87(2)(b). § 87(2)(b) could not recall any specific description of the officers, except that they were wearing dark uniforms. None of the officers can be identified from § 87(2)(b)'s photographs in terms of shield number or nameplate.

§ 87(2)(b)'s photographs

§ 87(2)(b) took digital photographs of the anti-war demonstration (Enclosure 12), though none of these photographs depict the officers involved in the incident (as admitted by § 87(2)(b)). There were 32 total photographs on the compact disc that he provided the CCRB. A few of the pictures depict the mounted police officers at the intersection at the approximate time of the incident, and the seated protesters, but the photographs do not show any overt police misconduct against the protesters or § 87(2)(b).

Results of Investigation

Police Documents

Summons #§ 87(2)(b) (enclosure 8) indicates that § 87(2)(b) was issued a summons for § 87(2)(b) at 4:00 PM on February 15, 2003 by Police Officer Edmund Decio. A query of the NYPD Research and Retrieval office found no listing of this summons, indicating that the summons was either not submitted or never went to court.

The UF-49 Unusual Occurrence Report (enclosure 10f-10g) indicates that a Level 4 Mobilization was implemented at 1:40 PM and mobilized numerous task force units throughout the area of Patrol Borough Manhattan South.

NYPD Demonstration Roster map (Enclosure 9-9a) indicated that the incident location was within sector 8 and that Post 811 was assigned to it, though Post 811 also covered the intersections of 52nd Street and 54th Streets at Lexington Avenue. The detail roster for Post 811 (Enclosure 10-10e) identified the following officers as assigned to the incident location: PO Miguel Sanabria of the 63rd Precinct and PO Michael Odonnell of the 63rd Precinct. Also assigned to Post 811 were PO Michael Boylan, PO John Frezza, PO Mitchell Gross, and PO Nicholas Konkowski.

Possible Civilian Witness

§ 87(2)(b) stated that a colleague of his § 87(2)(b), might have witnessed this incident. Upon telephone contact, § 87(2)(b) stated that he was working with § 87(2)(b) on February 15th, but saw him last on East 50th Street and Lexington Avenue before the incident happened and was therefore not a witness to the incident. § 87(2)(b) only knew about the incident from § 87(2)(b) telling him about it approximately one week afterwards. He stated that the last time he saw § 87(2)(b) was at the corner of East 50th Street and Lexington Avenue. § 87(2)(g)

Officer Identification

§ 87(2)(b) could not describe any of the officers involved in this incident and stated that he would not be able to identify them in a photo array. § 87(2)(b) admitted that he was unable to identify any officers from an IAB photographic array. Officer Decio was identified by the summons that he issued to § 87(2)(b). In the course of its investigation of this incident, IAB interviewed PO Decio and Lt. Keith Kopinski.

Subject Officer Statement—Police Officer Decio

PO Decio was interviewed at the CCRB on May 1, 2003 (Enclosure 8-8e). Officer Decio had no memo book entries pertaining to this incident (enclosure 8a-8b). He was interviewed a second time at the CCRB on June 24, 2003 (Enclosure 8f-8j), at which time he was shown a set of photographs in order to identify the chief he alleged directed him to arrest § 87(2)(b). Finally, PO Decio was interviewed by IAB on October 28, 2003 (Enclosure 5eg).

According to PO Decio, he observed § 87(2)(b) standing in front of a horse and preventing the movement of the horse. Upon further questioning, PO Decio indicated that § 87(2)(b) was “kneeling” down in front of the horse, thereby blocking its path. PO Decio observed this while standing approximately

fifty feet away, on the west-side of Lexington Avenue, and looking north towards East 54th Street. § 87(2)(b) was due north of PO Decio's location, and the horses were south of § 87(2)(b) standing between § 87(2)(b) and PO Decio. An unidentified chief, who was standing approximately twenty feet to the east of Officer Decio, instructed him to arrest § 87(2)(b). Officer Decio described the chief as being a white male, approximately six feet tall. He identified him as a chief based on the brim of his hat (bearing wreaths).

Officer Decio approached § 87(2)(b) who stood up from his kneeling position, "screaming something" that the officer did not understand. However, the officer denied that § 87(2)(b) was screaming that he was § 87(2)(b) or that he § 87(2)(b). Officer Decio did not say anything to § 87(2)(b) and simply grabbed § 87(2)(b) by his shoulder and escorted him to the arrest bus. § 87(2)(b) pushed the officer and tried to walk in the opposite direction, but PO Decio responded to § 87(2)(b) by "pushing him with [his] nightstick," and walking him towards the bus. § 87(2)(b) was pushing back the whole time that PO Decio walked him to the bus.

Several unidentified officers assisted PO Decio in removing § 87(2)(b) to the arrest bus, but he did not know who they were or what they looked like save that they were in uniform and wearing helmets. According to the roll call, there were at least two officers from the 63rd Precinct (not PO Decio's command) assigned to this location and an additional seven officers assigned to nearby blocks who could have easily responded to the location. § 87(2)(b) was placed on the ground in front of the arrest bus and handcuffed. PO Decio then picked him up and brought him onto the bus. An unidentified lieutenant in the vicinity instructed Officer Decio to issue § 87(2)(b) a summons in lieu of arresting him.

In his IAB statement, PO Decio indicated that § 87(2)(b) showed his press pass and stated he was § 87(2)(b) when they were at the arrest bus.

PO Decio was shown a photographic array consisting of Deputy Chief Michael Collins, Deputy Chief Bruce Smolka, and Deputy Chief Patrick Dudgeon, who were assigned to the anti-war detail. PO Decio could not identify which chief directed him to arrest § 87(2)(b).

IAB Special Investigations Unit Investigation 01-041-03 conducted by Det. Shawnee Moore

Det. Moore's investigation (Enclosure 5-5ge) provided no additional information. Det. Moore unsubstantiated § 87(2)(b)'s allegation that PO Decio threw him to the ground and dragged him to a police bus, citing the lack of an independent witness to verify or refute § 87(2)(b)'s claim as the reason for the recommendation. IAB Group 1 commanding officer Deputy Inspector Thomas Mason endorsed the report.

Conclusions and Recommendations

There is no dispute that PO Edmund Decio escorted § 87(2)(b) to the arrest bus and subsequently issued him a summons for § 87(2)(b). There is also no claim of physical injury by any of the parties involved in this incident. Both § 87(2)(b) and PO Decio agreed that other uniformed officers assisted PO Decio. § 87(2)(g)

It is known that the Chief of Department implemented a level four mobilization at 1:40 PM, increasing officer presence throughout the area covered by Patrol Borough Manhattan South. § 87(2)(g)

Regarding § 87(2)(b)'s allegation that PO Decio used physical force against him in order to handcuff him, the complainant and officer disagreed concerning the nature of the force. Patrol Guide Procedure 203-11 directs officers to use the "minimum necessary force" to effect an arrest. § 87(2)(b) claimed that the officers grabbed him, dragged him to the arrest bus, and then threw him to the ground, whereas PO Decio indicated that he initially grabbed § 87(2)(b) by the shoulder in order to guide him to the bus, only to have § 87(2)(b) push him. The officer then claimed to push § 87(2)(b) with his nightstick and eventually placed him on the ground in order to handcuff § 87(2)(b). The officer denied throwing § 87(2)(b) to the ground. § 87(2)(g)

Neither the complainant nor the officer could recall or describe the other officers who assisted PO Decio in this matter. Moreover, § 87(2)(b) indicated that he did not identify officers in a photographic array with IAB and also stated that he would not be able to identify them in a CCRB photographic array. § 87(2)(b)'s own photographs from the date of incident did not provide any evidence regarding this incident or identify the officers involved. Finally, IAB's investigation was unable to identify the remaining officers involved. § 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: